

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

RICHARD JOHNSON	§	
v.	§	CIVIL ACTION NO. 6:04cv476
SHERIFF, SMITH COUNTY	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Petitioner Richard Johnson, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of a criminal case and detainer which were pending against him. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Johnson complained that Smith County authorities had been holding a charge against him for four years, and were refusing to try him or to drop the charge. The Magistrate Judge ordered the Respondent to answer, noting that the on-line records of Smith County showed that Johnson had charges filed against him in July of 2000, and that no further action had been taken in the case, which case was still pending as of the date of the order to answer in April of 2005.

In his answer, the Respondent stated that as of January 11, 2005, the detainer placed upon Johnson had been removed. The Respondent further stated that the State filed a motion to dismiss the criminal case, which motion has been granted. The Magistrate Judge reviewed the on-line records of Smith County and found that these records showed that a motion to dismiss the criminal case against Johnson was filed on May 31, 2005, and the case was dismissed on June 1, 2005. The Magistrate Judge therefore concluded that Johnson's petition was moot in that he had received the relief requested.

Neither party filed objections to the Magistrate Judge's Report; accordingly, the parties are barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

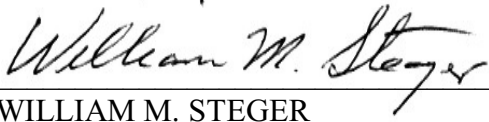
The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Magistrate Judge's Report is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED as moot. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

**SIGNED this 3rd day of October, 2005.**

  
WILLIAM M. STEGER  
UNITED STATES DISTRICT JUDGE